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Federal Communications Commission
Washington, DC 20554

RE: Comments to FCC Notice of Inquiry, IB Docket No. 04-398

To whom it may concern,

Last September, I placed two international calls to Albania from my Verizon land line telephone in New York. One of my calls terminated in a mobile system and the other in a land line system, but both calls were billed to me by Verizon at identical rates of \$5.26 per minute.

It is my understanding that the rates for calls from the U.S. to Albania are among the highest in the world. As a U.S. citizen, this is highly disturbing because I have reason to believe these rates have been artificially inflated as a result of market manipulation, collusion and price fixing between the Albanian government officials who control Albtelecom, the government owned fixed line operator, and Albania's privately owned wireless carriers, Vodafone, headquartered in the U.K., and AMC, an entity controlled by Greek telecom operators. If this information is verified, these relationships constitute a conspiracy between Albanian government officials and private sector telecom executives designed to defraud international callers to Albania. This should be of major concern to the FCC because a large percentage of this telephone traffic emanates from the U.S., and there is an adverse impact on American consumers. Furthermore, this could be just the tip of the iceberg because the situation in Albania may serve as an indication that similar acts of collusion exist between governments and private telephone carriers in other countries where U.S. calls are terminated.

In September 2003, the International Telecommunications Union (ITU) issued a report on Albania's telecom interconnection agreements that came to the conclusion that the fee sharing arrangements between Albtelecom and Albania's two private wireless carriers were highly unusual. In brief, the report indicated that Albtelecom has been receiving a grossly lower percentage of the fees generated by each telephone call, and the wireless

carriers were receiving an overly generous portion of the fees. In early December 2003, the ITU report was sent to the Albanian Regulatory Authority and the Ministry of Transport and Communications, but for some mysterious reason the ITU reports were “misplaced” and these government agencies did not bring the issue to the attention of Parliament or the Albanian public. This matter remained hidden within the Regulatory Authority and the Ministry of Transport and Communications until the publication in Albania of my February 3, 2004 letter to Vodafone Chairman Lord MacLaurin that requested an investigation of the interconnection agreements between Vodafone and Albtelecom. A summary extract of the ITU report is attached herewith.

Seven months before the ITU report was issued, the U.S. government arrived at a similar conclusion. Unknown to the ITU and completely independent of its October 2003 report, the Central Eastern Europe Business Information Center (CEEbIC), an agency of the U.S. government that was established to promote economic development in Eastern Europe, issued a March 2003 report (<http://www.mac.doc.gov/ceebic/countryr/Albania/itc.htm>) titled, “Telecommunications and Information Technology Albania.” A section of the CEEbIC report called “Backbones and Interconnection” stated,

*“Albtelecom is generating a big debt due to these **abnormal** interconnection agreements which have been signed and are in force.”*

As the FCC is aware, similar to domestic interconnection agreements, fees generated from international calls are shared among telecom carriers. Typically, the telecom carrier in the country where the call terminates would be entitled to a portion of the fee. In the case of Albania, as mandated by the government and by law, all international calls to and from Albania must pass through Albtelecom which is entitled to a percentage of the fee generated by the call.

It is my understanding that telecom regulatory authorities from around the world provide information regarding their international traffic to Telegeography, a Washington-based organization that monitors this type of data. A source in Albania has informed me that Greek telephone traffic reports given to Telegeography indicated that in 2002 there were 105 million minutes of calls originating in Greece and terminating in Albania. In direct contradiction to this report, it appears that Albtelecom reported receiving only 85 million minutes of calls from Greece during this same period. The difference represents an amount of traffic equivalent to almost 30% of Albtelecom’s international business with Greece.

How and why did 20 million minutes disappear? Are there similar irregularities with respect to Albania’s telephone traffic with the U.S.? Is it possible that international calls are being illegally diverted either before they reach Albania or within Albania? Why would Albtelecom, which has a state protected monopoly on international calls that terminate in Albania, share such a large percentage of the international interconnection fees with the two private wireless carriers? The answer to these and other questions may explain why calls placed by Americans to Albania are so expensive.

According to the FCC web site and with regard to Albania, Albtelecom is still considered as a “carrier presumed to possess market power” in Albania, not Vodafone or AMC. This has implications for the termination rate paid to Albtelecom which will be lower than the rate paid to a carrier that is “assumed not to possess market power,” in this case Vodafone and AMC. A very likely reason is that Albtelecom is still the only “official” carrier for international traffic. Because U.S. operators do not have direct links with Vodafone and AMC, the U.S. carriers see only Albtelecom. The implication is that the Albanian government, via Albtelecom, in collusion with the Albania’s private wireless carriers, is engaged in a scheme which defrauds U.S. citizens and other international callers every time a call is placed to Albania.

A major concern here is that senior Albanian government officials, who control Albtelecom, are in a position to provide sweetheart deals to the private wireless carriers in return for financial reward.

The FCC should be aware that Albania is considered among the most corrupt countries in the world by Transparency International. You should also be aware that Members of the U.S. Congress at the Helsinki Commission hearing in Washington and Senior Officials of the European Union have recently issued stern warnings to the Albanian government in efforts to pressure them to curtail corrupt practices. Furthermore, a U.S. government agency is currently investigating Fatos Nano, the Prime Minister of Albania, for corrupt practices, including allegations that he maintains illegal foreign bank accounts. These circumstances, combined with the irregularities in Albania’s telecom sector that were exposed in the ITU and CEEBIC reports, make it clear that this matter should be addressed by the FCC.

The FCC should also take into consideration the fact that the common stock of Vodafone is publicly traded in the U.S. and a high concentration of its shareholders are American financial institutions and citizens; therefore, Vodafone falls under the purview of the U.S. government via the Securities and Exchange Commission and most probably other agencies, including the FCC due to the fact that Vodafone is a major shareholder in Verizon Wireless.

My efforts to bring this matter to the attention of the Albanian public forced the Albanian government to address this issue last year. Unfortunately, in the absence of any pressure being exerted by the U.S., the Albanian government conducted a sham investigation that was analogous to giving a fox the charge of guarding hens. A final resolution of this matter can only be accomplished by the U.S. government demanding that the Albanian government, the recipient of significant U.S. economic assistance, conduct a fully transparent investigation to include analysis of Albania’s domestic and international interconnection agreements and Albania’s international telephone traffic with the U.S. Because the requisite skills required for this task are unavailable in Albania, by necessity, such an investigation will require the participation of independent and objective outside auditors and industry experts.

Because it appears that U.S. citizens are being defrauded every time a call is placed to Albania, I am requesting that the FCC open an investigation of this matter as soon as possible.

Thank you.

Sincerely,

Gary Q. Kokalari

ITU report appears below:

REVIEW
OF
CURRENT INTERCONNECTION ARRANGEMENTS IN ALBANIA
(An extract from an ITU Report)

1.1 Interconnection (I/C) agreements

Interconnection agreements are available

- between AMC/Vodafone and ABLTELECOM
- between AMC and Vodafone
- between ABLTELECOM and rural operators

ABLTELECOM has been determined to have the Significant Market Power (SMP) status.

The Albanian Telecommunications Act (art 42 item d) states that “Organisations with Significant Market Power have the obligation to send copies of their interconnection agreements to TRE and make them available on request by interested parties (excluding commercially sensitive parts other than details of interconnection charges, terms and conditions)”. This means that interconnection agreements between AMC/Vodafone and ABLTELECOM and on the other hand between ABLTELECOM and rural operators should be available to all interested parties.

The analysis of the interconnection situations was based on the current interconnection agreement documents and the discussion with the officials of the Albanian Telecommunications Regulatory Authority. No data for an in-depth analysis of the current interconnection situation were available.

Problems with interconnection arrangements exist in two different categories:

- in the interconnection between mobile operators (AMC and Vodafone) and the national fixed network operators ABLTELECOM
- in the interconnection between ABLTELECOM and local rural fixed line operators

The interconnection agreements include three types of problems:

1. Legal problem

The current Albanian Telecommunications Act (art 46) states “Interconnection fees must be cost oriented and cover effective cost using the network”. Both type of the above mentioned I/C agreements are based on charges by revenues sharing (sharing the fees paid by calling end users). Thus these I/C agreement are in conflict with the Telecommunications Act.

2. Discriminatory / unbalanced fee structure

The commercial terms of Vodafone / ABLTELECOM interconnection agreement (the AMC / ABLTELECOM interconnection agreement is exactly similar) indicate an unbalanced situation which sets ABLTELECOM in unfair position.

The main commercial terms in the agreements are:

- Tariffs setting

- Tariffs for calls from PSTN to PLMN will be jointly agreed by parties
- Tariffs for calls from PLMN to PSTN are set exclusively by Vodafone

- National calls

- For billed calls from PSTN to PLMN, even customer has not paid, Vodafone receives 88% of the billed tariffs and in any case 40 Leke per minute
Note: that traffic was **10.8 million minutes** in first semester of 2003
- For calls from PLMN to PSTN Vodafone pays to ABLTELECOM 8% of applicable tariff and in any case ABLTELECOM shall receive at least 3 leke per minute
Note: that traffic was **4.3 million minutes** in first semester of 2003

- International calls

- For international calls made from abroad through PSTN to PLMN, Vodafone receives 84% of the average tariffs minutes of international accounting rate agreed by ABLTELECOM (effective revenue sharing is Vodafone 84% and ABLTELECOM 16%).
Note: that traffic was **63.8 million minutes** in first semester of 2003
- For international calls made from Vodafone network to foreign countries, ABLTELECOM receives applicable international accounting rate plus 10% (effectively Vodafone keeps large amount of fee paid by calling customer, ABLTELECOM pays accounting rate to foreign operator and can keep only 10 % (likely less than 5% of the fee paid by customer)
Note: that traffic was **5.9 million minutes** in first semester of 2003

- National transit traffic

- There is no economic compensation for ABLTELECOM in transit traffic between two mobile operators
Note: that traffic was **23.1 million minutes** from Vodafone to AMC and from AMC to Vodafone **22.6 million minutes** in first semester of 2003

According the officials of the Telecommunications Authority the interconnection agreement between ABLTELECOM and rural operator includes also revenue sharing terms which are uneconomic and unfair to the rural operators. No traffic data was available.

3. Period of agreement

The contract period in the interconnection agreements between the mobile operators and ABLTELECOM is a fixed period of four years. This is an extremely long time in the rapidly developing telecommunications field. The normally used period terms state that after one year it is possible to renegotiate the content and prices of the agreements.

1.2 ISPs' access to network

According to the officials of the Telecommunications Authority there exists a strong discriminatory situation with regard to access by Internet Service Providers to the network of the ALBTELECOM.

The ISP division of ABLTELECOM can offer to end users as package including both access (connection between customer and ISP) and services of ISP.

The independent ISPs can price to customer only their services. Customer pays as separate price to ALBTELECOM the connection.

These different arrangement result that the total fee paid by customer is higher for independent ISP's services.

This situation violates the non discriminatory principles.

2. Areas of interconnection where improvement is needed

The present interconnection arrangements between AMC/Vodafone are highly unfavourable for publicly owned fixed operator ALBTELECOM. It must be said that there is not a single example in Europe or wider with such unfair interconnection deals for the fixed operator. This not only severely damages public interests in Albania (since ALBTELECOM is public owned) but also creates risks in longer term in several aspects, for example:

- The current interconnection arrangements between ABLTELECOM and mobile operators may lead to a complete collapse of ABLTELECOM.
- Similarly the current I/C agreement between ABLTELECOM and rural private operators is likely to result that the rural operators cannot survive.

The situations described above are worsened due to the fact that telephone calls are more and more made within and between the mobile telecommunications networks.

2.1 Recommendations

In view of the above, the following is recommended:

Recommendation 1:

Regulatory Authority to initiate revision of the current interconnection agreements between ALBTELECOM and AMC and between ALBTELECOM and Vodafone as a matter of urgency on the grounds that these agreements violate the Telecommunication Act in force and severely damage public interests.

Recommendation 2:

Regulatory Authority to carry out an in depth analysis of the magnitude of public funds that are lost due to the one-sidedness of these agreements and take an urgent legal action to recover the lost public funds.

Recommendation 3:

In future, the Regulatory Authority should demand that operators prove the cost orientation of their interconnection prices by cost calculations . Precondition for

cost calculations is a proper accounting separation. This should be supported by guide papers and possibly by an additional basic regulation on accounting separation prepared by the Regulatory Authority.

Recommendation 4:

Developing competence within of the Regulatory Authority in economic monitoring / control of telecommunication operations, especially in the areas related to interconnection, tariffs and universal service.

Recommendation 5:

The regulatory Authority to establish a procedure for public written consultations on drafts of new regulations or major decisions.

